

**RHODIA PROPERTY
1495 S. 11th STREET
DEVELOPMENT AGREEMENT**

THIS DEVELOPMENT AGREEMENT (the “Agreement”) is made and entered into as of January 28 2021 (the “Effective Date”) by and between **LOUISVILLE/JEFFERSON COUNTY METRO GOVERNMENT**, a Kentucky consolidated local government, acting by and through **DEVELOP LOUISVILLE**, with an office located at 444 S. Fifth St., Suite 600, Louisville, Kentucky 40202 (“Metro Government”) and **Re:Land Group**, Limited Liability Company, a Kentucky limited liability company with its principal office at 10509 Jimson Pool Street, Prospect, KY 40059 (“Developer”).

RECITALS

WHEREAS, Metro Government owns property located at 1495 S. 11th Street, Louisville, Kentucky as more particularly described in Exhibit A attached hereto and incorporated herein by reference (the “Subject Property”); and

WHEREAS, Metro Government desires to promote and encourage the revitalization of the commercial corridor in the Park Hill neighborhood and to provide, among other things, more affordable housing opportunities and sustainable economic opportunities to local residents; and

WHEREAS, Metro Government’s Department of Develop Louisville issued a Solicitation of Interest (herein “SOI”) on May 20, 2020, for the redevelopment of the Subject Property; and

WHEREAS, Metro Government included Subject Property in its 2020 Annual Action Plan as well as its 2020 – 2024 Consolidated Plan as a project that will further address other Priority Needs as identified by these Plans, including community development; and

WHEREAS, the Developer and co-development partner Luckett & Farley Architects, Engineers and Construction Managers, Inc. with its principal office at 737 S. Third Street, Louisville, Kentucky 40202 (“Co-Developer”) submitted the sole response to the SOI and Metro Government determined that it was responsive to the SOI; and

WHEREAS, Developer and Co-Developer’s response to the SOI was to construct and operate a mixed-use, mixed-income community with uses including, but not limited to affordable, market-rate and student housing, offices, retail/café-like spaces, and green space with an urban park plaza on the Subject Property, as further described in the SOI response attached hereto as Exhibit B and incorporated herein by reference (the “Plan”); and

WHEREAS, because of the importance of the Plan to help create equity and deliver economic vitality to the Park Hill community and surrounding areas, Metro Government believes it is in the best interests of Metro to support Developer’s efforts with the Plan; and

WHEREAS, the parties to the Agreement anticipate that completion of the Plan will create jobs, affordable housing, and amenities needed in the area surrounding the Subject Property, all of which will inure to the benefit of the public and promote the general welfare; and

WHEREAS, Metro Government contemplates that the Plan will convert a Brownfield property into much-needed housing and amenities for the area, enhancing the neighborhood and an underserved area and furthering Metro Government's public purposes, and accordingly, Metro Government intends to work with the Developer on details regarding the transfer of possession of the Subject Property in order to facilitate the Plan, subject to, and in accordance with, the terms and conditions of this Agreement and applicable federal, state and local codes, ordinances and regulations; and

WHEREAS, Metro Government and Developer wish to enter into a Development Agreement establishing the terms and conditions for the development of the Subject Property by Developer;

NOW, THEREFORE, in consideration of the premises and the mutual covenants and undertakings contained herein and for other good and valuable consideration, the receipt and sufficiency of which are acknowledged by the parties, the parties agree as follows:

ARTICLE I

COVENANTS AND UNDERTAKINGS OF DEVELOPER

Section 1.01. Construction of Plan. Developer agrees to use commercially reasonable efforts to develop a phased approach to satisfy the contingencies set forth herein in order to construct the project contemplated by the Plan on the Subject Property, in accordance with the terms and conditions of this Agreement. For the purposes of this Agreement, however, Developer's obligations shall consist only of the obligations described in Section 1.02 of this Agreement.

Section 1.02. General Obligations.

A. Developer. Subject to the terms and conditions of this Agreement, Developer shall: (1) submit a budget for Environmental Testing (as hereinafter defined) to Metro Government; (2) perform, or cause to be performed, the Due Diligence and the Environmental Testing (as hereinafter defined); (3) develop a plan for Environmental Remediation (as hereinafter defined); (4) in Developer's sole discretion and judgment, develop a final project proposal for the Plan based on the information provided by the Environmental Testing, the Project Advisory Group, broader Park Hill community, relevant market factors, and Developer, Co-Developer and their partners, consultants, and advisors' best judgment; (5) develop a proposed budget for the construction of the Plan, including an identification of any municipal and state incentives, including but not limited to land conveyance, tax credits, tax increment financing, municipal bonding or grants, and low interest loans necessary to construct the Plan ("the Potential Metro Government Funding Sources"); and (6) based upon the above, enter into, with Metro Government, a subsequent development agreement for the development of the Plan (the "Subsequent Development Agreement").

B. Metro Government. Subject to the terms and conditions of this Agreement, Metro Government shall: (1) pay, or reimburse Developer for, the: (i) Phase 1

Environmental Assessment (according to Section 1.15 below), and if applicable, any remaining Environmental Testing subject to funding availability and award of same to Developer; and (ii) identify available incentives to assist in the Environmental Remediation (as hereinafter defined), if applicable, to be performed, ; (2) determine terms for conveyance of the Subject Property to Developer as further described in Section 2.01 below; and (3) upon satisfactory completion of the terms and conditions herein enter into, with Developer, the Subsequent Development Agreement.

Section 1.03. Schedule and Construction: Term of this Agreement.

A. Developer and Metro Government agree to adhere to the schedule set forth in subsection (B) of this Section to perform the requirements set forth in Section 1.02 (the “Schedule”). So long as Developer is in substantial compliance with the Schedule, subject to delays caused by Force Majeure, this Agreement shall remain in effect and Developer shall have the exclusive right to develop the Subject Property according to the terms of this Agreement.

B. Developer shall use its best efforts to perform the Actions below according to the following Schedule. Developer shall provide Metro Government with monthly updates on these activities on or before the last date of each month during the term of this Agreement and any extensions thereof.

<u>Action</u>	<u>Date</u>
<i>Establish Environmental Testing Budget</i>	<i>within 30 days of Developer receipt of phase I testing report, but in no event later than 5/31/2021</i>
<i>Submit initial Request for Potential Metro Government Funding Sources (if any)</i>	<i>on or before 1/31/2021</i>
<i>Environmental phase I testing completion</i>	<i>on or before 4/30/2021</i>
<i>Application to state brownfields program</i>	<i>on or before 4/30/2021</i>
<i>Final Plan Budget</i>	<i>on or before 6/30/21</i>

D. This Agreement shall remain in effect until June 30, 2021, unless otherwise extended in accordance with this Agreement or by the parties in writing. Within 30 days of the successful completion of all of the Actions set forth above by the Dates set forth above (as mutually determined by Developer and Metro Government, in writing), and all other requirements of this Agreement, unless this Agreement is otherwise terminated, the parties will begin to negotiate the Subsequent Development Agreement that will address the design, development, and financing of the proposed Plan.

F. Any provision of the Agreement to the contrary notwithstanding, if Developer is delayed in the Actions contemplated herein or the contemplated remediation and/or construction of the Plan by reasons of Force Majeure as provided in Section 3.06 or another cause which Metro Government and Developer agree is reasonably justifiable, the date of completion of the Actions in this Section to be performed by Developer shall be extended by Metro Government as provided in Section 3.05.

G. Developer, its agents and employees, shall work with Metro Government to gain a right of entry upon the Subject Property for the purposes of performing: (1) reasonable due diligence, including but not limited to evaluation of the: (i) title; (ii) survey; (iii) availability of gas, electricity, telephone, water, storm and sanitary sewer, and other utility services in adjoining rights-of-way or properly granted and recorded utility easements are serving or will serve the Subject Property at adequate pressures, and in sufficient quantities and volumes; and (iv) geotechnical testing (collectively, the “Due Diligence”); and (2) any necessary environmental testing, planning or inspections, including but not limited to a Phase 1 Environmental Assessment, Phase 2 Environmental Assessment, and/or a Phase 3 Environmental Assessment (the “Environmental Testing”) in accordance with the separate License Agreement entered into or to be entered into by the parties within 30 days of the Effective Date.

Section 1.04. Design and Approval.

A. Pursuant to the terms and conditions of the Subsequent Development Agreement, Developer shall submit to Metro Government for approval contemplated final plans and renderings of the proposed plans for the Plan, which plans shall be, to the greatest extent possible, consistent with Section 4 of the Plan. At appropriate points throughout the Term, Developer shall submit proposed plans to Metro Government for its review and comment, which comments shall be included in the contemplated final plans and renderings in Developer’s sole discretion.

B. The Plan, any Plan as amended, schematics, drawings and other plans (collectively, the “Work”) are and shall remain the sole and exclusive property of Developer, and by entering into this Agreement, Metro Government is not acquiring any license, property right, or other legal or equitable interest in the Work and Metro Government may not copy, distribute or use the Work in any way without the express written consent of Developer, except to the extent that Metro Government is obligated to meet the requirements of the Kentucky Open Records Act (the “Open Records Act”). For the purposes of KRS 61.878(1)(c): (i) Developer’s submissions under this Section, including but not limited to proprietary and/or financial information, shall be considered as confidentially disclosed to Metro Government in conjunction with an application for or the administration of assessments, incentives, inducements and tax credits; and (ii) Metro Government shall take all reasonable actions to prevent or limit the disclosure thereof to any other party under the Open Records Act.

Section 1.05. Labor Requirements. Developer and its contractors conducting the contemplated remediation or constructing the contemplated Plan shall abide by the Minority Business Enterprise percentage goals contained within Louisville/Jefferson County Metro Government Code of Ordinances section 37.75 and all applicable wage requirements established by any relevant part of the Potential Metro Government Funding Sources.

Section 1.06. Codes. The Actions and any work performed hereunder shall comply with all applicable federal, state and local codes, ordinances, statutes and regulations.

Section 1.07. Employment Regulations: Affirmative Action. Developer, its contractors and subcontractors, shall not refuse to hire or employ, nor bar or discharge from employment, nor discriminate against any person in compensation or in terms, conditions or privileges of employment because of sex, race, creed, color, national origin, sexual orientation or disability. At all times during the contemplated remediation performed pursuant to the Plan, Developer shall take commercially reasonable action to ensure that its employees and the employees of its contractors and subcontractors are treated in a non-discriminatory fashion during employment, without regard to their sex, race, creed, color, national origin, sexual orientation or disability. This requirement shall apply to, but not be limited to, the following: employment; promotion; demotion or transfer; recruitment; advertising; layoff or termination; rates of pay or other forms of compensation, and selection for training.

Section 1.08. Liens. Developer will keep the Subject Property free and clear of all mechanics' and materialmen's liens and other liens on account of work done for Developer or persons claiming under Developer. Should any such lien be filed against the Subject Property or any of its appurtenances, Developer shall pay, bond over, or otherwise remove such lien within sixty (60) days of it being provided written notice thereof. Should Developer elect to dispute the amount required to release such lien or the quality of service provided by the contractor who placed the lien, Developer shall have the right to provide a bond against such lien in form and content accepted in writing by Metro Government, which acceptance shall not be unreasonably withheld, delayed, or conditioned.

Section 1.09. Non-Discrimination. Upon completion of the contemplated Plan and as applicable, Developer agrees to abide by all fair housing laws, and will not discriminate on the basis of race, sex, creed, disability, sexual orientation or national origin, in the sale, lease, rental use or occupancy of the commercial units on the Subject Property.

Section 1.10. Insurance. Developer shall provide all insurance as required by Metro Government's Risk Management Department as is more particularly described on Exhibit C, attached hereto and made a part hereof. Developer agrees to comply with any reasonable modifications to the insurance requirements contained in this Agreement requested by Metro Government, and any requested modification to the insurance requirements by Metro Government shall be communicated to Developer as soon as possible in writing.

Section 1.11. Site Security. Developer agrees to comply with the reasonable and customary security established for the work site or sites located on the Subject Property by Metro Government during completion of Developer's Environmental Testing and Due Diligence as contemplated in Section 1.03 (G) herein. Developer shall adhere to and perform all reasonable actions required by Metro Government, including but not limited to securing all gates, fences, or barriers upon entry or exit, for the effective operation of Metro Government's installed security on the Subject Property; provided that, Metro Government shall retain the cost and expense of the design, construction installation, maintenance, and repair of such security systems, if any.

Developer shall promptly notify Metro Government in writing if Developer identifies a condition reasonably impacting the safety or security of the Subject Property.

Section 1.12. Plan Budget. In accordance with the Schedule, Developer shall submit to Metro Government a reasonably detailed budget for environmental remediation, development, and construction of the Subject Property, all buildings, and components of the Plan, including landscaping, sufficiently detailed to enable Metro Government to determine if the budget is reasonable and sufficient to enable the Plan to be constructed in accordance with the terms of this Agreement and the Plan (the “Plan Budget”). Metro Government will endeavor to support Developer in determining Developer’s eligibility for appropriate tax increment financing, as well as other local, state or federal funding opportunities, subject to funding availability and award of same.

Section 1.13. Developer Financing. In accordance with the Schedule contained in Section 1.03(B), Developer shall furnish to Metro Government written evidence of private or public financing commitments, including for a construction loan, in an amount sufficient to complete construction of the Plan. Such commitments may include pledges of federal or state funds for future fiscal years.

Section 1.14 Indemnification. The parties shall indemnify and hold harmless each other, their elected and appointed officials, employees, agents and successors in interest from all actual, out-of-pocket claims, damages, losses and all reasonable expenses, arising out of or resulting, directly or indirectly, from the indemnifying party’s performance or breach of this Agreement provided that such claim, damage, loss, or expense is: (1) attributable to personal injury, bodily injury, sickness, death, or to injury to or destruction of property, including the loss of use resulting therefrom, or breach of contract, and (2) not caused by the negligent act or omission or willful misconduct of the indemnified party or its elected and appointed officials, employees, agents, and successors in interest acting within the scope of their employment. Notwithstanding anything to the contrary set forth herein, this Section 1.14 shall in no way be limited by any financial responsibility or insurance requirements and shall survive the termination of this Agreement.

Section 1.15. Environmental Testing and Remediation. Developer, at its sole expense unless otherwise agreed, shall be responsible for performing any testing, assessments or other examinations to determine whether Hazardous Materials (as defined below) are present in, on, or under the Subject Property (herein “Environmental Testing”). Metro Government will assist Developer with its application to place the Subject Property in the Kentucky Redevelopment and Reuse Program (415). Metro Government will obtain a Phase I Environmental Site Assessment on the Subject Property on Developer’s behalf in accordance with the schedule set forth in Section 1.03 above, which Developer acknowledges is required to be completed no more than six months of Developer’s application for the Kentucky Redevelopment and Reuse Program (415). Metro Government agrees to pay the application fee charged by the Kentucky Redevelopment and Reuse Program (415) in an amount not to exceed Two Thousand Five Hundred Dollars (\$2,500.00). Further, if additional testing in the form of a Phase 2 or Phase 3 Environmental Site Assessment is conducted, Metro Government agrees to pay for or reimburse Developer to complete such testing

if funds are available and allocated for same, and such testing shall be included within "Environmental Testing".

Immediately after the execution of, and subject to the terms and conditions of, this Agreement, (a) Developer, or Metro Government on Developer's behalf if otherwise agreed, may conduct any and all Environmental Testing it deems reasonably necessary at the Subject Property and (b) Metro Government shall provide Developer and any agent or representative of Developer with access to the Subject Property and any requested information to allow Developer to access the Subject Property to conduct surveys, topographical studies, feasibility studies, environmental studies, wetland delineation studies and taking borings of the soil. Metro Government covenants and agrees to fully cooperate with Developer in complying with the terms of this Section 1.15.

As used herein, the term "Hazardous Material" means any hazardous or toxic substance, material or waste which is or becomes regulated by any applicable federal, state or local governmental agency or authority. The term "Hazardous Material" includes, without limitation, any material or substance which is (i) petroleum, (ii) asbestos, (iii) designated as a "hazardous substance" pursuant to Section 311 of the Federal Water Pollution Control Act (33 USC Section 1317), (iv) defined as "hazardous waste" pursuant to Section 1004 of the Federal Resource Conservation and Recovery Act (42 USC Section 6903), (v) defined as a "hazardous substance" pursuant to Section 101(14) of the Comprehensive Environmental Response Compensation and Liability Act ("CERCLA") (42 USC Section 9601), or (vi) defined as a "pollutant" or "contaminant" pursuant to Section 101(33) of CERCLA.

Developer and its officers, employees, engineers, surveyors and other agents and assigns, shall have, and are granted by the Metro Government, the right to enter upon the Subject Property from time to time and the right to ingress and egress over, through and from the Subject Property, for the purpose of Environmental Testing and making such other reasonable observations and inspections of the Subject Property deemed necessary or appropriate by Developer. Developer shall undertake the Environmental Testing in a manner so as not to unreasonably interfere with the current use of Subject Property and shall promptly repair any damage to the Subject Property resulting from the Environmental Testing and shall not permit any dangerous or unsafe condition to be created by the Environmental Testing.

Section 1.16. Operation and Maintenance of Completed Plan. Upon completion of the contemplated Plan, Developer shall comply with the provisions of this Section. Developer recognizes and acknowledges that the manner in which the Completed Plan is used and operated is important to Metro Government by reason of the impact which the Completed Plan is expected to have upon the Park Hill neighborhood and the Louisville Metro area as a whole. In order to give the Metro Government assurance as to the manner in which the Completed Plan will be used and operated, Developer agrees to use its best efforts to establish and maintain the highest level of quality and character consistent with: (a) the type of development; and (b) the standards by which similar developments are constructed, operated, and maintained within the City of Louisville/Jefferson County metropolitan area.

Developer acknowledges that Metro Government has entered into a robust public input and comment process with the community adjacent to and surrounding the Subject Property, which has provided significant insight into the types of development desired and the issues that the community believes have negatively impacted further development and character within the area. In light of that process, Metro Government has established certain parameters to guide the development of the Subject Property, including but not limited to the following obligations of Developer:

- A. Develop and manage the Completed Plan in a manner consistent with the type of development constructed and with similar developments developed and managed within the Louisville/Jefferson County metropolitan area and use reasonable efforts to lease the Completed Plan to tenants which will provide necessary and desired services or goods to the residents of Park Hill;
- B. Unless: (i) otherwise agreed by the parties; and (ii) providing a level of service consistent with the type of development described in Subsection (A) above, not allow the following types of businesses to operate on the Subject Property:
 - a. liquor stores;
 - b. rehab/drug treatment facilities;
 - c. half-way houses;
 - d. car lots;
 - e. massage parlors;
 - f. tobacco/vaping shops; or
 - g. heavy manufacturing-type development.
- C. To the extent consistent with market conditions existing at the time of lease execution and type of tenant, impose reasonable hours and days of operation on each tenant that leases space in the Completed Plan;
- D. Make reasonable efforts to market, or cause others to market, the Completed Plan by appropriate promotions and advertising consistent with other developments of a similar type within the Louisville/Jefferson County metropolitan area;
- E. Keep the Completed Plan and all furniture, fixtures, HVAC systems, equipment and other personal property of Developer that serve the Completed Plan in good repair and condition;
- F. Maintain the Completed Plan (exclusive of tenants' spaces) in a clean and sanitary condition;
- G. Comply with all applicable laws, ordinances, regulations and codes applicable to its operations;
- H. Obtain and maintain, or cause others to obtain and maintain, all appropriate or required licenses and permits required for the operation of the Completed Plan by Developer (as opposed to the operation of Tenant's spaces); and
- I. Require tenants to maintain tenant spaces within the Completed Plan in the same manner as required of Developer in paragraphs (D) - (H) of this Section.

Section 1.17. Project Advisory Group and Community Benefits Agreement. Developer shall use good-faith efforts to work with the local community advisory group selected by

Developer and Metro Government (the “Project Advisory Group”) with the goal of creating goodwill among nearby residents and businesses to benefit the development of the Plan.

Furthermore, Developer shall create a binding Community Benefits Agreement prior to any closing occurring under the Subsequent Development Agreement, that includes, at minimum:

- A. A commitment to hire and train workers from surrounding neighborhoods in accordance with Part 75, the revised Section 3 guidelines, and CDBG-eligible census tracts; and
- B. A process for resident engagement throughout the development of the Plan.

Section 1.18. Additional Representations and Covenants of Developer. Developer represents and covenants as follows:

- A. Developer is a limited liability company duly formed and validly existing under the laws of the Commonwealth of Kentucky with the power and authority to enter into this Agreement.
- B. Developer is not a “foreign person” as that term is defined in Section 1445 of the Internal Revenue Code, and applicable regulations.
- C. The execution of this Agreement, and the actions contemplated herein by Developer will not violate any applicable statute, law, ordinance, code, rule or regulation or any restriction or agreement binding upon or otherwise applicable to Developer.
- D. There are no actions, suits or proceedings pending or threatened against Developer which would, if adversely determined, affect Developer’s ability to enter into this Agreement or construct the development in accordance with this Agreement.

ARTICLE II

COVENANTS AND UNDERTAKINGS OF METRO GOVERNMENT

Section 2.01. Sale of Subject Property, Purchase Price. Subject to successful completion of all of the Actions set forth in Section 1.03(B) by the Dates set forth therein and negotiation and execution of the Subsequent Development Agreement, possession of the Subject Property will be conveyed to Developer; the price and any additional terms shall be negotiated between the parties in the Subsequent Development Agreement. Any conveyance of the Subject Property will be in an “as is, where is” condition by a special warranty deed containing a provision that the Subject Property may revert to Metro Government upon the occurrence of an event of a default under the Subsequent Development Agreement, prior to the commencement of construction of a project that is substantially similar to the project described within the Plan, that is not cured within the applicable period or such other default to be negotiated by the parties in the Subsequent Agreement.

The contemplated conveyance of the Subject Property to Developer shall also contain reasonable restrictions prohibiting the Subject Property from being used for heavy manufacturing-type development, liquor stores, rehab/drug treatment facilities, half-way houses, car lots, massage parlors, and tobacco/vaping shops and may contain other conditions and/or restrictions, as negotiated by the parties hereto and in any Subsequent Development Agreement. Metro

Government shall make no warranties with regard to the condition of buildings, the environmental condition of the Subject Property, the suitability of the Subject Property or existing buildings for Developer's intended uses or as to any other condition existing in the past, the present or the future at the Subject Property. Developer shall rely upon: (a) its own investigations and observations at; and (b) the Environment Testing of; the Subject Property.

Section 2.02. Additional Representations, Covenants and Agreements of Metro Government. Metro Government represents and covenants as follows:

A. Metro Government is a Kentucky Consolidated Local Government established pursuant to KRS 67C and possesses the requisite authority to enter into this Agreement.

B. Metro Government has not made any untrue statement of a material fact or failed to state a material fact in this Agreement or any schedule, exhibit, document or certificate delivered in accordance with the terms hereof.

C. Metro Government agrees to use reasonable efforts to assist Developer in coordinating the work of various governmental entities and utilities with respect to servicing and permitting the Plan and use of the Subject Property.

D. Metro Government will endeavor to support Developer in: (1) identifying public sources of funding to offset the cost of any Environmental Remediation; (2) identifying the Potential Metro Government Funding Sources.

E. There are no actions, suits or proceedings pending or threatened against Metro Government that would, if adversely determined, affect Metro Government's ability to enter into this Agreement or perform its obligations in accordance with this Agreement.

ARTICLE III
MISCELLANEOUS

Section 3.01. Provisions not Merged with Deeds and Other Agreements. This Agreement shall not terminate upon the execution of the deed referenced by this Agreement, and the provisions of this Agreement shall not be deemed to be merged into the deed.

Section 3.02 Governing Law. This Agreement, the construction thereof and the rights and obligations of the parties hereunder shall be governed in all respects by the laws of the Commonwealth of Kentucky.

Section 3.03. Severability. Each and every provision hereof, including Articles, Section, and Subsections shall be separate, several and distinct from each other provision hereof, and the invalidity, unenforceability or illegality of any such provision shall not affect the enforceability of any other provision hereof.

Section 3.04. Section Headings and Captions.

Section 3.05. Mutual Extension; Diligent Performance.

Section 3.06. Force Majeure.

Section 3.07. Notices.

If to Developer:

Copies to:

Wallack Somers & Haas
One Indiana Square, Suite 2300
Indianapolis, Indiana 46204
Attn: Adam Collins
Phone: 317-502-4037

If to Metro Government: Develop Louisville
444 South Fifth Street, Suite 600
Louisville, Kentucky 40202
Attn: Director
Phone: 502-574-4140

Copy to: Jefferson County Attorney
First Trust Centre
200 S. Fifth Street, Suite 300N
Louisville, Kentucky 40202
Attn: Anne P. Scholtz
Phone: 502-574-3348

Section 3.08. Entirety of Agreement. This Agreement, together with all Exhibits attached hereto, constitutes the entire understanding and agreement of the parties with respect to the matters set forth herein, and all prior agreements and understandings, between Metro Government and Developer, are merged herein. The Exhibits to this Agreement constitute a material part hereof and are incorporated by reference herein. This Agreement may not be modified, amended or revoked, except in writing, executed by each of the parties.

Section 3.09. Fees and Expenses. Each party hereto shall bear its own respective expenses and costs for legal, accounting and administrative services in connection with the negotiation of this Agreement and consummation of the transactions contemplated hereby, except as mutually agreed to by the parties

Section 3.10. Successor and Permitted Assigns for the Parties Hereto. Developer shall not assign or transfer any interests under this Agreement without the prior written consent of Metro Government, provided that Developer may transfer its interest under this Agreement to: (a) any entity wholly owned or controlled by Developer; or (b) any single purpose entity established by Developer and its partners as listed in the Plan to perform the design, development, and financing of the Plan wholly owned or controlled by Developer or its partners as listed in the Plan.

Section 3.11. Estoppels. Each of the parties hereto agrees to provide to the other, or to such third parties as may be reasonably requested by the others, written estoppels from time to time certifying, among other matters, the continued viability of this Agreement, the absence of any defaults hereunder or, if defaults exist, specifying in detail the nature of such defaults, the status of the obligations of the parties each to the other, and such other matters as may reasonably be requested by the party requesting such estoppel certificate(s).

Section 3.12. No Third Party Beneficiaries; No Partnership or Joint Venture Created.

Nothing contained in this Agreement shall be deemed or construed as creating any relationship of third-party beneficiary, principal and agent, general partnership or joint venture or other association or relationship among Developer and Metro Government. The terms and provisions of this Agreement are solely for the benefit of each of the parties hereto, their successors and permitted assigns, and shall not benefit in any manner any person not a party to this Agreement.

Section 3.13. No Abrogation of Legal Requirements. Nothing contained herein shall be construed to permit any party to violate any applicable law, regulation or code.

Section 3.14. Default.

A. If either party breaches or defaults on its obligations under this Agreement or any of the documents incorporated herein (each an “Event of Default”), or if Developer has failed to complete the Actions in accordance with the Schedule contained in Section 1.03, the non-defaulting party may give written notice (with a copy of said notice being given to any lender of Developer in the case of a default by Developer) that remedial action must be taken with thirty (30) calendar days. The defaulting party shall correct such Event of Default within thirty (30) days after receipt of such written notice. If the Event of Default is not reasonably curable within thirty (30) days, then the thirty (30) day period shall be extended as reasonably may be necessary for the defaulting party to remedy such Event of Default, so long as the defaulting party: (a) commences to remedy the Event of Default within the thirty (30) day period; and (b) diligently pursues such remedy to completion (the “Cure Period”). If such action is not taken within the thirty (30) day period, then: (i) Metro Government may terminate the Agreement ten (10) days after giving written notice to Developer; or (ii) Developer may take whatever actions at law or in equity that are necessary or appropriate to collect any payments or reimbursements due to Developer pursuant to Section 1.02(B) or Section 1.15 of this Agreement.

B. In the event this Agreement is terminated as described above as a result of a default by either party, the non-defaulting party shall be entitled to any remedy and damages available to it at law or in equity. Within thirty (30) days of the effective date of any termination of this Agreement, Developer shall provide Metro Government with written copies of all available records, tests, inspections, reports, studies, and non-proprietary document, which shall specifically exclude any Developer financial information, that were obtained by Developer and either paid for, or which cost was reimbursed by, Metro Government.

Section 3.15. Termination by Developer. During the term of this Development Agreement, Developer shall have the right upon ten (10) days written notice to terminate this Agreement upon: (i) Metro Government providing notice to Developer that funding shall not be provided for, or will not be provided in a sufficient amount, in Developer’s sole discretion, to complete the: (1) Environmental Testing; or (2) Environmental Remediation; (ii) Metro Government providing notice to Developer that Potential Metro Government Funding Sources are not available, or not

available in sufficient amounts, in Developer's sole discretion, to complete the Completed Plan; or (iii) its finding, in Developer's sole discretion, that the Plan is not commercially viable.

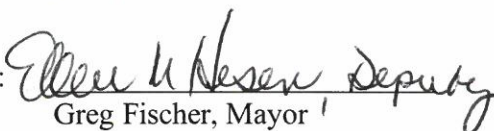
Section 3.16. Binding Effect. Each of the parties hereto covenants and warrants that (i) it is duly authorized to transact business in the Commonwealth of Kentucky, (ii) the person executing this Agreement on behalf of the party is duly authorized by the party to sign and execute this Agreement on its behalf, (iii) this Agreement is a valid and binding obligation on the party and enforceable in accordance with its terms, and (iv) it is the intention of each of the parties to this Agreement that it shall be binding and legally enforceable in accordance with its terms.

Section 3.17. Authority. Each undersigned person executing this Agreement on behalf of Developer and Metro Government represents and certifies that: (a) he or she has been empowered and authorized by all necessary action of Metro Government and Developer, respectively, to execute and deliver this Agreement; (b) he or she has the full capacity, power, and authority to enter into and carry out this Agreement; and (c) the execution, delivery, and performance of this Agreement have been authorized by Metro Government and Developer, respectively.

IN TESTIMONY WHEREOF, witness the signatures of the authorized representatives of the parties hereto as of the day and year first written above.

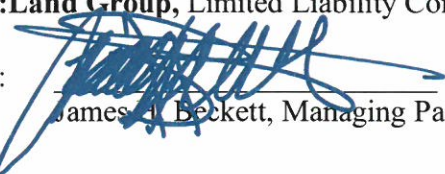
**LOUISVILLE/JEFFERSON COUNTY
METRO GOVERNMENT**

Dated: 1/28/2021


By: 
Greg Fischer, Mayor

Re: Land Group, Limited Liability Company

Dated: 1/27/2021

By: 
James J. Beckett, Managing Partner

Approved as to form:
Michael J. O'Connell
Jefferson County Attorney

By: 
Assistant Jefferson County Attorney
First Trust Centre

200 S. Fifth Street
Suite 300N
Louisville, KY 40202
(502) 574-3348

Exhibit A
to
Development Agreement

BEGINNING at an existing x-cut, said x-cut being north of the intersection of S. 11th Street and S. 7th Street; thence running with the east right-of-way line of said S. 11th Street the following two courses; **N32°05'25"W, 419.92'** to an existing x-cut; **N08°53'59"E, 1336.36'** to a found 1/2" by 18" iron pin with cap stamped "JBAILEY 3678", said iron pin being southeast of the intersection of S. 11th Street and Hill Street; thence running with the south right-of-way line of said Hill Street **S81°15'41"E, 232.23'** to an existing x-cut, said x-cut being southwest of the intersection of said Hill Street and the Southern Railroad right-of-way; thence running with the west right-of-way line of said Southern Railroad **S11°57'59"E, 1279.96'** to an existing 1/2" by 18" iron pin with cap stamped "JBAILEY 3678", said iron pin being east of the intersection of said Southern Railroad and said S. 7th Street; thence running with the northwest right-of-way line of said S. 7th Street **S50°55'23"W, 616.48'** to the **BEGINNING**, containing 16.70 acres.

Exhibit B
to
Development Agreement

(Attach Statement of Intent submitted by Re:Land from website)

Exhibit C
to
Development Agreement

Insurance Requirements

A. Prior to commencing work, Developer shall obtain at its own cost and expense the following types of insurance through insurance companies licensed in the State of Kentucky. Insurance written by non-admitted carriers will also be considered acceptable, in accordance with Kentucky Insurance Law (KRS 304.10-040). Workers' Compensation written through qualified group self-insurance programs in accordance with Kentucky Revised Statutes (KRS 342.350) will also be acceptable. The Developer shall not commence work under this Agreement until all insurance required under the Agreement has been obtained and until copies of policies or certificates thereof are submitted to Metro Government and approved by the Metro Government's Risk Management Division. The Developer shall not allow any subcontractor to commence work until the insurance required of such subcontractor has been obtained and copies of Certificates of Insurance retained by Developer evidencing proof of coverages.

Without limiting Developer's indemnification requirements, it is agreed that Developer shall maintain in force at all times during the performance of this agreement the following policy or policies of insurance covering its operations, and require subcontractors, if subcontracting is authorized, to procure and maintain these same policies until final acceptance of the work by the Metro Government. Metro Government may require Developer to supply proof of subcontractor's insurance via Certificates of Insurance, or at Metro Government's option, actual copies of policies.

B. The following clause shall be added to the Developer's (and approved subcontractors) Commercial General Liability Policies:

1. "The Louisville/Jefferson County Metro Government, its elected and appointed officials, employees, agents and successors are added as an "Additional Insured" as respects operations of the Named Insured performed relative to the contract."

C. The insurance to be procured and maintained and minimum Limits of Liability shall be as follows, unless different limits are specified by addendum to the contract (and such minimum limits shall not limit access to the full amount of insurance available (whether through primary, excess or umbrella policies) on the Developer's or subcontractors policy(ies), if that/those policy(ies) provide for Limits above the minimum):

1. COMMERCIAL GENERAL LIABILITY: via the Occurrence Form, primary and non-contributory, with a \$1,000,000 Combined Single Limit for any one Occurrence and \$2,000,000 aggregate for Bodily Injury, Personal Injury and Property Damage and Products/Completed Operations, including:
 - a. Premises - Operations Coverage
 - b. Products and Completed Operations

- c. Contractual Liability
- d. Broad Form Property Damage
- e. Independent Contractors Protective Liability
- f. Personal Injury

2. WORKERS' COMPENSATION (if applicable): insuring the employers' obligations under Kentucky Revised Statutes Chapter 342 at Statutory Limits, and EMPLOYERS' LIABILITY - \$100,000 Each Accident/\$500,000 Disease - Policy Limit/\$100,000 Disease - Each Employee.

D. ACCEPTABILITY OF INSURERS

Insurance is to be placed with Insurance Companies with an A. M. Best Rating of no less than "A- VI", unless proper financial information relating to the Company is submitted to and approved by Metro Government's Risk Management Division.

E. MISCELLANEOUS

1. The Developer shall procure and maintain insurance policies and shall furnish Certificates of Insurance within ten (10) days of the execution of the Agreement. The Certificates shall include the name and address of the person executing the Certificate of Insurance as well as the person's signature. If policies expire before the termination of the Agreement, renewal Certificates of Insurance shall be furnished to Metro Government at least fifteen (15) days prior to the expiration of any policy(s).
2. Upon execution of the Agreement, Certificates of Insurance as required above shall be furnished to:

Louisville/Jefferson County Metro Government
Develop Louisville
Attn: Director
444 South Fifth Street, Suite 600
Louisville, Kentucky 40202

3. Upon Renewal of insurance coverage (s), Certificates of Insurance evidencing renewal shall be furnished to:

Louisville/Jefferson County Metro Government
Office of Management and Budget
Risk Management Division
611 West Jefferson Street
Louisville, Kentucky 40202

4. CANCELLATION OR MATERIAL CHANGE OF COVERAGE: Developer shall notify Metro Government's Risk Management Division of any policy cancellation within five business days of its receipt of same. Upon any material change (changes that reduce/restrict limit or terms and conditions to your insurance coverage) in

coverage as required above, Developer shall notify Metro Government's Risk Management Division within five business days. When requested by the Metro Government, a copy of the policy endorsement shall be provided to Metro Government's Risk Management Division.

5. Approval of the insurance by Metro Government shall not in any way relieve or decrease the liability of the Developer hereunder. It is expressly understood that Metro Government does not in any way represent that the specified Limits of Liability or coverage or policy forms are sufficient or adequate to protect the interest or liabilities of the Developer.